

Remarks/Arguments

Claims 1-16 are the claims for examination on the merits.

Claims 1-16 are rejected as anticipated under 35 USC 102(e) or in the alternative, under 35 USC 103(a) as obvious over Denni-Dischert (WO2004/026847).

The rejections under 35 USC 102(e) and 35 USC 103(a) are rendered moot since Applicants' foreign priority under 35 USC 119(a)-(d) to UK 0402262.0 of 02 February 2004 precedes the publication date of 1 April 2004 for Denni-Dischert (WO2004/026847). Thus, Denni-Dischert is not prior art to Applicants' claimed invention under the cited sections of the patent statutes. For the above reasons, withdrawal of these grounds of rejection are respectfully requested.

In the alternative, assuming arguendo that Denni-Dischert is prior art to Applicants' claimed invention, the rejections under 35 USC 102(e) and 35 USC 103 are respectfully traversed.

Denni-Dischert teaches a process for preparing compound (IVe) by the following process:

In step (ii) reacting the tetrazole compound (IV c) + $X\text{Zn}$ -compound (IV d) \rightarrow compound (IV e) in the presence of a transition metal catalyst.

Thus, Denni-Dischert fails to teach or disclose Applicants' claimed process in claims 1-16 directed to a process for the manufacture of the compound of formula (I), since Denni-Dischert fails to disclose a process that uses Applicants' Hal-Mg -compound (II b).

Moreover, Denni-Dischert also fails to teach or disclose Applicants' claimed process in claims 1-16 by failing to disclose Applicants' use of a catalytically effective amount of a metal salt additive.

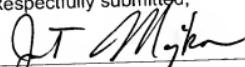
Thus, Denni-Dischert fails to disclose Applicants' claimed process in claims 1-16 under 35 USC 102(e).

Further, there are no teachings in Denni-Dischert that would render obvious the use of (a) Applicants' Hal-Mg-compound (II b) or (b) Applicants' catalytically effective amount of a metal salt additive.

Thus, Denni-Dischert fails to render obvious Applicants' claimed process in claims 1-16 under 35 USC 103(a) and a *prima facie* case for obviousness has not been established.

Withdrawal of the above rejections and allowance of claims 1-16 is respectfully requested.

Respectfully submitted,


Joseph Majka
Attorney for Applicant
Reg. No. 30,570

Novartis Pharmaceuticals Corporation
One Health Plaza, Bldg. 101
East Hanover, NJ 07936
(862) 778-9499

Date: September 29, 2009